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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,435	11/02/2000	Nir Ben-Zvi	63512/JPW/GJC	4779

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EXAMINER
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NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/704,435

Applicant(s)

BEN-ZVI, NIR

Examiner

Phuoc H. Nguyen

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.84(h)(5) because Figures 1 and 2 show(s) modified forms of construction in the same view. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 does not point out any specific limitation. For examination purposes, the examiner disregard this claim.

### ***Claim Objections***

5. Claims 4,5, and 9, objected to because of the following informalities:

With respect to claims 2,3, and 4c, examiner suggested applicant to change "...to said users...." to "... to said other users....".

With respect to claim 5b, examiner suggested applicant to remove a **period** (.) between first group.

With respect to claim 9c, examiner suggested applicant to change "...upstream channel of his full duplex..." to "upstream channel of said user full duplex".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, and 3-12 rejected under 35 U.S.C. 102(e) as being anticipated by Ice U.S. Patent 5,884,031.

8. Referring to claim 1, Ice reference discloses receiving data (information) from said network by at least one user (information send from server A to clients C1 and C2), storing said data on said user's storage device for a predetermined period of time for further user (storing information from the server A in clients C1 and C2), re-transmitting said received data to other users (Abstract; Figures 1, and 2; col. 2, lines 23-35, and lines 55-62).

9. Referring to claim 3, Ice reference discloses retransmitted the information to the other users; however, Ice reference does not explicitly disclose the re-transmission of said received data to said users is carried out after download time (Abstract).

10. Referring to claim 4, Ice reference discloses receiving said data by said user, storing said received data on said user's computer system and re-transmitting said data from the user's location to said users through said upstream channel bandwidth in response to a request or according to pre-defined operation instructions (Abstract; Figure 1; and col. 2, lines 8-22).

11. Referring to claim 5, Ice reference discloses receiving data on said user's computer system, causing said received data to be re-transmitted through said upstream channel bandwidth from said user to a first group (C1 and C2) of one or more other users, causing said received data to be re-transmitted through said upstream channel bandwidth from said first group of users to a further group (C3-C6, Cs) of one or more other users; and repeating step (c) for all said users requesting the same said data (Abstract; Figure 1; and col. 2, lines 8-35).

12. Referring to claim 6, Ice reference discloses data is transmitted to said user from a plurality of other users (Figure 1).

13. Referring to claim 7, Ice reference discloses the transmission of data from a user to one or more other user(s) is carried out with delay (Figures 3,4A, and 4B).

14. Referring to claim 8, Ice reference discloses receiving data on said user's computer system, re-transmitting said received data through said upstream channel bandwidth to a dedicated server (Client computer and dedicated server are interchangeable) for storage, and retrieving said stored data from said dedicated server for other purposes (Abstract; Figures 1, and 2; col. 2, lines 23-35, and lines 55-62).

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15. Referring to claim 9, Ice reference discloses a coordination center (server A) for tracking data entities distributed over said data network (col. 3, lines 1-28), a plurality of users having computer means connected to said data network via a full-duplex connection, said computer means comprising or being coupled to memory means and software and/or hardware means for re-transmitting data from the computer of each user via the upstream channel of his full duplex connection to other users connected to said network (Abstract; Figures 1, and 2; col. 2, lines 23-35, and lines 55-62).

16. Referring to claim 10, Ice reference discloses the coordination center (server A) comprises storage means and software/hardware component for storing information related to the data passed through the network and for data retrieval (col. 3, lines 1-49).

17. Referring to claim 11, Ice reference discloses the users are provided with software/hardware components, suitable to re-transmit the data received in said user's computer to the other users on the network according to instructions from the coordination center (server A) or according to pre-defined operation instructions (col. 2, lines 17-22; and col. 3, lines 50 through col. 4, lines 10).

18. Referring to claim 12, Ice reference disclose the users are provided with software/hardware components suitable to send information to the coordination center representative of the upstream bandwidth available, and of the contents stored in the memory means associated with the user's computer, that are available for retransmission (col. 2, lines 17-22; and col. 3, lines 50 through col. 4, lines 10).

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Ice.

Ice reference discloses users C1 and C2 received information from server A and storage it in users storage, and retransmitted the information to the other users; however, the examiner takes an official notice that the re-transmission of received data to users is carried out during download time or re-transmit on the fly is known in the art which data is transmitted a portion of unfinished receiving data. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to retransmit data to other users on-the-fly while receiving said data from server into Ice's invention because it would enable to reduce the delivery time to other users by waiving the waiting time of the last receiving data.

***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Bolam et al. U.S. Patent 6,334,151**

**Todd et al. U.S. Patent 6,643,682**

**Gupta U.S. Patent 6,446,109**

**Kaufmann U.S. Patent 6,453,335**

**Albert et al. U.S. Patent 6,606,315**

**Albert et al. U.S. Patent 6,549,516**

**Perlman U.S. Patent 5,586,257**

**Lin et al. U.S. Patent 6,405,256**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu ( 7AM-4:30PM ) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Phuoc H. Nguyen  
Examiner  
Art Unit 2143

February 20, 2004



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